

§ 53-393. Action by the Commissioner following full settlement.

Whenever the Commissioner has paid all duly proven and allowed claims described in subdivisions (a)(1) through (a)(4) of G.S. 53-389, has made proper provision for unclaimed and unpaid and disputed claims, and has other assets of the State trust company, the Commissioner shall, unless the State trust company is granted permission to resume business in accordance with G.S. 53-381, call a meeting of the shareholders of the State trust company by giving notice thereof by publication once a week for four consecutive weeks in a newspaper published in the county, or if no newspaper is published in the county, then in a newspaper having general circulation in the county, and by mailing a copy of the notice to each shareholder's address as it appears on the books of the State trust company. Affidavit of the mailing of the notice herein required and of the newspaper as to the publication shall be conclusive evidence of notice hereunder. At the meeting, any shareholders may be represented by proxy and the shareholders shall elect, by a majority vote of the shares present, an agent or agents who shall be authorized to receive from the Commissioner all the remaining assets of the State trust company. The shareholders also may specify the means of resolving disputes between multiple agents and appointing successors to the agent or agents. The Commissioner shall cause to be transferred and delivered to the agent, or agents, all the remaining assets of the State trust company. The Commissioner shall thereupon cause to be filed in the office of the clerk of the superior court of the county in which the action is pending a full and complete report of all transactions showing the assets of the State trust company so transferred together with the name of the agent or agents giving receipt for the assets; and the filing of the report shall act as a full and complete discharge of the Commissioner from all further liabilities to the shareholders of the State trust company by reason of the liquidation of the State trust company. The agent shall convert the assets coming into the agent's hands into cash, except as otherwise provided by the court upon motion in the cause made by a shareholder of the State trust company, and shall make distribution to the shareholders of the State trust company as herein provided. The agent shall file semiannually a report of all transactions with the superior court of the county in which the State trust company is located, and with the Commissioner, and shall be allowed for the services such fees, not in excess of five percent (5%) of receipts and disbursements, as may be fixed by the court. In case of death, removal, or refusal to act of any agent or agents elected by the shareholders, the Commissioner or any interested person may seek an order from the resident or presiding judge in the county in which the action is pending appointing a successor to the agent or agents as determined by the shareholders or, if no method was set forth by the shareholders, as determined by the court to be in the best interests of the shareholders. The court in its discretion may either appoint a successor or order the call of a further meeting of shareholders for the election of a successor and make any orders that are appropriate. (2001-263, s. 1.)